

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hongwei Chen	Team: Team # 8	CCRB Case #: 200805485	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/16/2008 4:30 PM	Location of Incident: § 87(2)(b)	Precinct: 10	18 Mo. SOL 10/16/2009	EO SOL 10/16/2009	
Date/Time CV Reported Thu, 04/17/2008 11:54 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 04/17/2008 11:54 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Frederic Ortiz	29958	935440	NARCBMS
2. LT Ernest Lungaro	00000	894138	NARCBMS
3. DT3 Bennie Vance	06561	920924	NARCBMS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Joseph King	06514	920467	NARCBMS
2. DT3 Anthony Bombolino	01314	915328	NARCBMS
3. DT3 Frank Altieri	03227	923499	NARCBMS
4. DT3 Jason Nachtrab	03263	933080	NARCBMS

Officer(s)	Allegation	Investigator Recommendation
A.POM Frederic Ortiz	Abuse: PO Frederic Ortiz stopped § 87(2)(b)	
B.POM Frederic Ortiz	Abuse: PO Frederic Ortiz stopped § 87(2)(b)	
C.DT3 Bennie Vance	Discourtesy: Det. Bennie Vance spoke obscenely and rudely to § 87(2)(b)	
D.DT3 Bennie Vance	Abuse: Det. Bennie Vance threatened to arrest § 87(2)(b)	
E.DT3 Bennie Vance	Abuse: Det. Bennie Vance searched § 87(2)(b)	
F.POM Frederic Ortiz	Abuse: PO Frederic Ortiz searched a car belonging to § 87(2)(b)	
G.LT Ernest Lungaro	Abuse: Lt. Ernest Lungaro authorized the search of a car belonging to § 87(2)(b)	

Synopsis

On April 16, 2008, at approximately 4:30 PM, § 87(2)(b) parked and exited his grey-blue Honda Pilot SUV near the intersection of § 87(2)(b) in Manhattan. § 87(2)(b) began speaking to § 87(2)(b) and walked eastbound. In front of § 87(2)(b), a Manhattan South Narcotics team consisting of PO Frederic Ortiz, Lt. Ernest Lungaro, Det. Anthony Bombolino, Det. Frank Altieri, Det. Joseph King, Det. Bennie Vance, and PO Jason Nachtrab stopped § 87(2)(b) and § 87(2)(b) (**Allegations A and B**). The officers searched the two individuals and then placed them under arrest. During the search, § 87(2)(b) approached § 87(2)(b). Det. Bennie Vance told § 87(2)(b) to “Get the fuck back” (**Allegation C**) and said, “If you don’t shut up you can go to jail too” (**Allegation D**). Det. Vance then asked § 87(2)(b) to lift her shirt and empty her pockets (**Allegation E**). Det. Vance also probed the embroidered design on § 87(2)(b) back pocket with his finger. Officers recovered marijuana on § 87(2)(b) s person. PO Ortiz proceeded to search Honda SUV in which § 87(2)(b) had been an occupant (**Allegation F**). The officers under Lt. Lungaro’s supervision then searched a second vehicle, a grey Volkswagen Jetta, to which § 87(2)(b) possessed the keys (**Allegation G**). The vehicle belonged to § 87(2)(b) s father, § 87(2)(b).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) (henceforth referred to as § 87(2)(b) for clarity) is a § 87(2)(b)-old white male who is 6’3” tall and weighs 185 pounds, with blond hair and blue eyes. § 87(2)(b) reported his complaint via the CCRB website on April 17, 2008 (encl. 3a-i). § 87(2)(b) provided a subsequent phone statement on April 23, 2008 (encl. 3j). § 87(2)(b) was interviewed by the CCRB on May 22, 2008 (encl. 3k-o). The statements have been combined and summarized below.

On April 16, 2008 at approximately 4:30 PM, § 87(2)(b) returned from the barbershop and parked his car on § 87(2)(b) in Manhattan. § 87(2)(b) exited his car and saw an acquaintance, § 87(2)(b) from the neighborhood. § 87(2)(b) did not provide the CCRB with his last name. § 87(2)(b) gave § 87(2)(b) a quick handshake. § 87(2)(b) walked with § 87(2)(b) for half a block towards § 87(2)(b) and spoke to him occasionally. § 87(2)(b) was walking to his apartment on § 87(2)(b) in Manhattan. § 87(2)(b) was paying most of his attention to a girlfriend of his and not to § 87(2)(b). There were many people on the street, and § 87(2)(b) s friend was one of them. § 87(2)(b) did not specify whether she was with § 87(2)(b) before he arrived. § 87(2)(b) did not exchange anything with § 87(2)(b). During this time, § 87(2)(b) called his girlfriend, § 87(2)(b) on a cellular telephone. § 87(2)(b) then spoke with another male, § 87(2)(b) from his neighborhood, who was asking him questions about his sister, who had been traveling. § 87(2)(b) then left the area. § 87(2)(b) arrived as § 87(2)(b) was speaking with § 87(2)(b). After a brief conversation, § 87(2)(b) and § 87(2)(b) walked towards § 87(2)(b) s apartment. An older white male officer in plainclothes, who was identified by the investigation as Lt. Ernest Lungaro from Manhattan South Narcotics, drove up to § 87(2)(b) in an SUV. Lt. Lungaro exited the vehicle and identified himself as a police officer with his shield and asked if they could “check” § 87(2)(b). Lt. Lungaro went into § 87(2)(b) s pockets and patted down his waist area. Lt. Lungaro removed the contents of § 87(2)(b) s pockets, which consisted of contacts, keys, cash, and wallet. § 87(2)(b) was wearing pants and jacket, which amounted to 4-5 or 6 pockets. Lt. Lungaro told § 87(2)(b) to “take it easy.”

§ 87(2)(b) asked questions about what was happening. One of the officers told her to go stand farther away. An officer told her to come back and asked her to lift up her shirt to expose her stomach and back area. One officer, § 87(2)(b) believed it was a black male with a mustache, identified by the

investigation as Det. Bennie Vance, “checked” her waistband by patting it down. Det. Vance did not do too much of a pat down. She was in front of § 87(2)(b) the apartment building. One of the officers told her to “get out of here before you’re the next one to go.” § 87(2)(b) did not remember Det. Vance excessively cursing. He may have said, “Get the hell out of here.” A male Hispanic officer, identified by the investigation as PO Frederic Ortiz, was talking to a female on the street. PO Ortiz walked over and searched § 87(2)(b). Officers identified by the investigation as Det. Anthony Bombolino and Det. Frank Alteri were also standing with § 87(2)(b).

Det. Vance told § 87(2)(b) that he had nothing on him and was “basically” free to go. PO Ortiz, however, said, “No no no don’t let him go, I saw something.” PO Ortiz searched § 87(2)(b) again, in the same fashion as before. PO Ortiz obtained § 87(2)(b)’s car keys and asked him which vehicle belonged to him. § 87(2)(b) told him that it was the dark gray-blue Honda SUV that he had parked near 7th Avenue, about 150 feet away. Officers, § 87(2)(b) could not say how many, then searched the vehicle. They looked in the passenger area and the drivers area, opened the center console, and opened the trunk. They emptied § 87(2)(b)’s gym bag onto the back seat and tore open all the grocery bags in his trunk. § 87(2)(b) believed that the officers searched the glove compartment, but did not see them do so. The officers then discovered another set of car keys. § 87(2)(b) was handcuffed and put into a dodge van that had just arrived. § 87(2)(b) stated that the van could have been white, but he was not sure. Det. Alteri and Det. Bombolino escorted him to the prisoner van. Both were in plainclothes.

§ 87(2)(b) did not see the officers search the second car, a grey Volkswagen Jetta, but heard from his sister, who was not present at the incident, that the laundry in the trunk had been “torn apart.” § 87(2)(b) stated that the officers visually inspected most of the car, but focused on the trunk. § 87(2)(b) § 87(2)(b)’s father, arrived while they were searching the vehicle and asked what was going on. An officer told § 87(2)(b) that § 87(2)(b) was not possessing at the time, but the officers needed to take him in to check his name. § 87(2)(b) was taken to the midtown north precinct, and fingerprinted. § 87(2)(b) however, was never charged for anything and released from the precinct, since the ADA had declined to prosecute. At the precinct, PO Ortiz told § 87(2)(b) that he had seen some kind of transaction happening.

§ 87(2)(b) is a § 87(2)(b)-old white female who is 5’2” tall and weighs 124 pounds, with brown hair and brown eyes. § 87(2)(b) reported her complaint via the CCRB website on April 17, 2008 (encl. 4a-d). § 87(2)(g)

§ 87(2)(b) provided a phone statement to the CCRB on May 2, 2008 (encl. 4e). § 87(2)(b) was interviewed at the CCRB on May 21, 2008 (encl. 4f-j). § 87(2)(g)

On April 16, 2008 at approximately 4:30 PM, § 87(2)(b) was in her apartment at § 87(2)(b) in Manhattan. § 87(2)(b) boyfriend, § 87(2)(b) was returning from a haircut. § 87(2)(b) walked outside to call § 87(2)(b) and saw him walking down the block from § 87(2)(b). § 87(2)(b) stated that she called him while walking over to him. § 87(2)(b) and § 87(2)(b) started talking with each other. A friend of § 87(2)(b), § 87(2)(b) was walking with § 87(2)(b). § 87(2)(b) was 5’3” dark skinned Hispanic male with a husky build. Also present was a younger girl, who is § 87(2)(b). § 87(2)(b) did not know the girl’s name. § 87(2)(b) and § 87(2)(b) was standing in between her building and § 87(2)(b)’s building right in front of § 87(2)(b) grandmother’s apartment’s window.

A plainclothes officer, identified by the investigation as PO Frederic Ortiz, came from behind § 87(2)(b) and grabbed § 87(2)(b). § 87(2)(b) stated that it happened fast so she could not recall exactly where the officer grabbed § 87(2)(b). § 87(2)(b) asked what was happening. A black male officer, identified by the investigation as PO Bennie Vance, told § 87(2)(b) to, “Get out of here.” PO Vance also said to § 87(2)(b) “Get the fuck away from him” and “If you don’t shut up you can go to jail too.” § 87(2)(b) walked away to her stoop, which was approximately 10 feet away from the incident, and watched the incident. § 87(2)(b) observed a black jeep and two other unmarked vehicles double parked. PO Ortiz pushed § 87(2)(b) against a car with his hands and then searched § 87(2)(b). PO Ortiz reached into § 87(2)(b)’s pockets and sleeves. Officers then began looking inside garbage cans in the area and underneath cars. § 87(2)(b) was standing by the gate of her stoop. PO Ortiz spoke to § 87(2)(b) and told him that he didn’t have anything on him. Suddenly another officer, who could not be identified purely from § 87(2)(b) description, said, “No no no, I’ve seen it, I’ve seen it.” The officers then searched § 87(2)(b) again. § 87(2)(b) did not specify which officers. Approximately 5 minutes elapsed between the two searches. § 87(2)(b) stated that the

officers also searched the § 87(2)(b)-old female who was in the area. It is unclear whether § 87(2)(b) saw the search. § 87(2)(b) stated that the female was just someone from the area.

Det. Vance told § 87(2)(b) to “Get back here.” § 87(2)(b) was wearing a tight tank top and tight jeans. Her jeans had an embroidered design on the back right pocket. In her official statement, § 87(2)(b) stated that Det. Vance asked her to lift up her blouse so that it was right below her bra wire. Det. Vance also asked § 87(2)(b) to empty her own pockets, which she did. Det. Vance said, “Lift up your shirt, what’s that? What’s that?” § 87(2)(b) complied, although she stated that she could have refused. Det. Vance asked § 87(2)(b) what the bump on her back pocket was. § 87(2)(b) explained that it was a brown embroidered design. Det. Vance then pushed on the design on § 87(2)(b) right back pocket with two fingers, two or three times, to make sure what it was. § 87(2)(b) stated that nothing could have fit in her pockets due to the smallness of her jeans. In § 87(2)(b) phone statement, however, she attributed the allegation to a 5’5” tall Hispanic male with a baseball cap, possibly PO Ortiz. In her initial complaint email, § 87(2)(b) attributed to the search to Lt. Lungaro.

Two or 3 officers, whom § 87(2)(b) could not describe beyond the fact that they were white males, were searching § 87(2)(b) but § 87(2)(b) did not pay much attention to what was happening to him. § 87(2)(b) was standing about 15 feet away from § 87(2)(b) past § 87(2)(b) steps. The officers searched § 87(2)(b) s pockets. § 87(2)(b) was wearing jeans with 6 pockets.

§ 87(2)(b) returned to her apartment and began calling friends and family. § 87(2)(b) heard that the officers searched § 87(2)(b) s vehicles but only saw one of the searches being conducted. From her window, § 87(2)(b) saw the officers look inside the trunk of her sister’s car.

§ 87(2)(b)

§ 87(2)(b) (henceforth referred to as § 87(2)(b) for clarity) is a § 87(2)(b)-old white male who is 6’3” tall and weighs 220 pounds, with black hair and black eyes. § 87(2)(b)

§ 87(2)(b) is § 87(2)(b) s father. § 87(2)(b) reported his complaint via the CCRB website on April 17, 2008 (encl. 5a-d). § 87(2)(g)

§ 87(2)(b) was interviewed at the CCRB on September 30, 2008 (encl. 5f-i).

On April 16, 2008, at approximately 4:30 PM, § 87(2)(b) was watching television inside his apartment at § 87(2)(b) on the § 87(2)(b), when he heard garbage cans being tipped over outside. § 87(2)(b) went to his window and saw a commotion outside. § 87(2)(b) could not discern exactly what was happening because trees were obstructing his view, but then saw the profile of his son, § 87(2)(b). § 87(2)(b) had his hands behind his back and was speaking to a plainclothes police officer. § 87(2)(b) also saw his son’s girlfriend walking back and forth. § 87(2)(b) stated that there were approximately 5-6 officers in plainclothes, with their shields exposed, standing in the area. From § 87(2)(b) s descriptions, the investigation identified the officers that § 87(2)(b) saw as Det. Bennie Vance, Det. Anthony Bombolino, PO Frederic Ortiz, Lt. Ernest Lungaro, and PO Nachtrab, from Manhattan South Narcotics.

§ 87(2)(b) started getting dressed in order to go downstairs, but periodically went to the window to see what was happening. The second time § 87(2)(b) went to the window, he saw two officers approach his car, a silver blue Honda Pilot, which was parked across the street, in front of a Laundromat, about 10 doors or 120 yards down to the right from his window. The address of the Laundromat might be § 87(2)(b). The car was the one § 87(2)(b) drove. § 87(2)(b) stated that one of the officers was dark skinned, either Det. Vance or PO Ortiz. The other officer was white, possibly Det. Bombolino. § 87(2)(b) stated, however, that he was not sure which officers approached the car. The officers opened the back hatch and the doors of the car. § 87(2)(b) could not see exactly what the officers were doing inside the car, but he did see that they had entered the vehicle and that “something was going on.” § 87(2)(b) observed the officers searching the vehicle for about 30 seconds. At first § 87(2)(b) stated that the officers took his golf clubs out and were looking inside the glove compartment. Upon further questioning, § 87(2)(b) stated that he did not actually see the officers examine his golf clubs, but discovered that they were out of place later.

§ 87(2)(b) returned to getting dressed and returned to the window again when he heard the chirping sound of his daughter’s car. § 87(2)(b) stated that the car chirped when a button was pressed on the key, and when § 87(2)(b) went to the window he saw his daughter’s car, a Gray Volkswagen which was registered to § 87(2)(b) and parked across the street, flashing, and 4 officers walking towards it. § 87(2)(b) did not know exactly which 4 officers they were. § 87(2)(b) saw the officers open the door and the trunk. § 87(2)(b) did not see what they did inside the car, but saw them inside. § 87(2)(b) did not know which officer actually entered

the car. § 87(2)(b) then ran downstairs. Approximately 2-3 minutes elapsed between the garbage can sounds and when § 87(2)(b) ran downstairs.

§ 87(2)(b) saw that the officers were still standing around the Volkswagen but had stopped searching it. § 87(2)(b) saw PO Nachtrab close the doors of the car. § 87(2)(b) walked in the middle of the street towards the officers. His door was 4-5 houses down from the incident location. § 87(2)(b) noticed an unmarked dark blue van in the middle of the street, and another car that he could not describe behind it. § 87(2)(b) believed that his son was inside the van. § 87(2)(b) noted that although he had only seen 5-6 officers from his room, there appeared to be approximately 8 officers on the scene. The additional officers may have come from the car behind the van. Det. Vance, Det. Bombolino, PO Ortiz, and PO Nachtrab saw § 87(2)(b) and approached him. § 87(2)(b) identified himself as § 87(2)(b)'s father, and asked what was happening and why the officers were in his car. One of the officers said, "It's an ongoing investigation." § 87(2)(b) asked if he could see his son. One of the officers, § 87(2)(b) did not recall which one, returned to Lt. Lungaro, who appeared to be in charge, and conferred with him. The officer returned and said that § 87(2)(b) could not see his son. § 87(2)(b) asked what his son was being charged with. The officers said that § 87(2)(b) was not being charged with anything yet, and "the investigation is still ongoing." § 87(2)(b) stated that the officers were reluctant to give information, but were otherwise friendly to him. § 87(2)(b) stated that all the white officers spoke to him, and he could not distinguish which officer said what.

After the officers left the scene, § 87(2)(b) examined his Honda. § 87(2)(b) noted that his golf clubs and golf balls were moved, his beach chairs were moved, his CDs were scattered over the interior, the glove compartment was open, and his battery charger cables were taken out of the box.

Results of Investigation

Civilian Statements

§ 87(2)(b) is a § 87(2)(b)-old Hispanic male who is 5'7" tall and weighs 140 pounds. § 87(2)(b) was identified by § 87(2)(b) as being a witness to the incident and a potential victim. § 87(2)(b) provided the investigation with § 87(2)(b)'s phone number. The investigator called the number on September 19, 2008 and discovered that it was not in service. A search of § 87(2)(b)'s name revealed negative results in white pages. A search of the Coles directory for the address listed in § 87(2)(b)'s arrest report revealed a number registered under the last name "§ 87(2)(b)". The undersigned called the number on September 22, 2008 and was informed that there was nobody by the name § 87(2)(b) at the number. A Verizon subpoena for subscriber records revealed a landline and billing information for individuals who did not share § 87(2)(b)'s surname (encl. 12a-g). The investigator called the landline number and discovered that it was a data connection. Please call letters were sent to the address on September 12, 2008 (encl. 11a) and September 22, 2008 (encl. 11d). § 87(2)(b) has not contacted the CCRB as of February 27, 2009. § 87(2)(b) is not incarcerated. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) is the owner of the store § 87(2)(b) located at § 87(2)(b) in Manhattan. § 87(2)(b) was identified by § 87(2)(b) as a witness to the incident, since his store was within view of the incident location. The CCRB contacted § 87(2)(b) on October 15, 2008 and obtained a phone statement (encl. 5k).

On April 16, 2008, at approximately 4:30 PM, § 87(2)(b) went outside his store and observed 2-3 uniformed officers searching a car. § 87(2)(b) believed the car belonged to either § 87(2)(b)'s girlfriend or to § 87(2)(b)'s sister. § 87(2)(b) knew § 87(2)(b) from the area. The vehicle being searched was a black and silver SUV. The officers were running their hands through the seats. They also looked inside the trunk. § 87(2)(b) described the trunk as a "SUV" trunk, which was linked to the inside of the car. § 87(2)(b) believed that nothing illegal happened.

§ 87(2)(b)

§ 87(2)(b) is the owner of a storefront on § 87(2)(b) in Manhattan. § 87(2)(b) was identified by § 87(2)(b) as a witness to the incident. The CCRB contacted § 87(2)(b) on February 4, 2009 and obtained a phone statement (encl. 5l).

On a date and time that § 87(2)(b) could not recall, § 87(2)(b) left his store to go outside for a cigarette and saw a white male standing on the other side of the street, 50-60 feet away, being searched by several officers. Because of the distance, § 87(2)(b) did not see the details of the search. § 87(2)(b) saw the male with his hands in the air and several officers around him. There were white officers, black officers, and Hispanic officers. § 87(2)(b) did not know if the officers entered the male's pockets. § 87(2)(b) did not see if the male was in handcuffs at the time. § 87(2)(b) did not notice a white female. § 87(2)(b) did not see any officers searching a vehicle. § 87(2)(b) went back inside before the conclusion of the incident.

Officer Statements

PO Frederic Ortiz

PO Frederic Ortiz is a § 87(2)(b)-old Hispanic male who is 5'10" tall and weighs 200 pounds, with a bald head and brown eyes. PO Ortiz was interviewed at the CCRB on January 16, 2009 (encl. 6f-h). On April 16, 2008, PO Ortiz worked from 11:15 AM to 8:30 PM as the arresting officer for the narcotics team. PO Ortiz was assigned to the lead car, an unmarked gray jeep, with Lt. Lungaro. PO Ortiz was in plainclothes.

Memo Book

In his memo book, PO Ortiz noted at the end of his tour that he had "2 under" (encl. 6a-b).

Arrest Reports

§ 87(2)(a) 160.50

CCRB Statement

On April 16, 2008, at approximately 4:30 PM, PO Ortiz was on the intersection of 8th Avenue and West 16th Street in Manhattan, inside the lead vehicle with Lt. Lungaro. PO Ortiz's vehicle was parked. Lt. Lungaro pointed out an individual identified as § 87(2)(b) and told PO Ortiz that § 87(2)(b) was a "delivery guy" for marijuana. PO Ortiz did not know from which direction § 87(2)(b) came from. Another male, who PO Ortiz described as black Hispanic, later identified by PO Ortiz as § 87(2)(b) approached § 87(2)(b) walking westbound on § 87(2)(b). § 87(2)(b) and § 87(2)(b) met with each other and entered a dark colored minivan or SUV that was parked on the north side of § 87(2)(b). PO Ortiz exited his vehicle and walked towards the vehicle that § 87(2)(b) and § 87(2)(b) entered. PO Ortiz saw § 87(2)(b) sitting in the driver's seat and § 87(2)(b) in the passenger seat. PO Ortiz walked next to the car, within feet, and observed that the two individuals were smoking a white marijuana cigarette. PO Ortiz stated that he could smell marijuana emanating from the vehicle.

PO Ortiz walked about 30 feet past the car, approximately 3 stores down, and hid in the stairway of a store. PO Ortiz then radioed the field team to get into position. About 3-4 minutes later, § 87(2)(b) and § 87(2)(b) exited the vehicle and proceeded to the south side of the street. They then walked down the block till they were in front of § 87(2)(b), the arrest location. This location was approximately 50 feet and 7-8 car lengths away from § 87(2)(b)'s vehicle. PO Ortiz exited the staircase and walked parallel with the suspects on north side of the street. PO Ortiz observed another Hispanic male with black hair of medium length, who was shorter than 5'10" and thinner than 200 pounds, approach § 87(2)(b) and § 87(2)(b). The individual appeared exchange something with § 87(2)(b) and § 87(2)(b) because he touched both of their hands. PO Ortiz demonstrated the "transaction" as both hands held vertically touching over the other. PO Ortiz believed that this was a drug transaction because § 87(2)(b) was a marijuana dealer, because PO Ortiz saw them smoking marijuana, and because the individual appeared to know where to go and went directly to § 87(2)(b) and § 87(2)(b). The interaction was brief and the individual walked away to the east.

PO Ortiz ordered the field team to move in and sent part of the team to apprehend the unidentified individual. The individual was not apprehended. PO Ortiz approached § 87(2)(b) PO Ortiz told § 87(2)(b) not to move. PO Ortiz did not recall what § 87(2)(b) said in return, but did recall that § 87(2)(b) mentioned that his mother was a cop. PO Ortiz stated that he immediately placed § 87(2)(b) under arrest. PO Ortiz did not have a specific recollection of whether he frisked § 87(2)(b) for weapons before or after § 87(2)(b) was placed in handcuffs. After § 87(2)(b) was placed in handcuffs, his pockets were emptied and placed in a yellow envelope and given to the prisoner van. PO Ortiz believed that he was the one who searched § 87(2)(b) but did not have a specific recollection. PO Ortiz stated that he did not conduct a thorough search but only removed § 87(2)(b)'s property. PO Ortiz did not find any contraband on § 87(2)(b).

PO Ortiz believed that it was Det. Vance who stopped § 87(2)(b) PO Ortiz was not aware of what happened in that stop. PO Ortiz did hear Det. Vance say that § 87(2)(b) had a large bag of marijuana. PO Ortiz also stated that there were two females at the scene. Both females were asking why § 87(2)(b) and § 87(2)(b) were being arrested. One female was identified as § 87(2)(b) who was asking about § 87(2)(b) § 87(2)(b) was upset that § 87(2)(b) was being arrested. § 87(2)(b) was being loud. PO Ortiz stated that he may have talked to her. PO Ortiz did not recall if § 87(2)(b) was stopped, questioned, frisked, or searched. PO Ortiz did not recall saying to § 87(2)(b) "Get the fuck back." The other female was also at the scene but PO Ortiz did not have a specific recollection of what she did. PO Ortiz stated that both females left the scene. PO Ortiz also stated that the second female could have been one of the bystanders who exited their apartments to watch.

During his initial search of § 87(2)(b) PO Ortiz recovered car keys. PO Ortiz took the keys and entered § 87(2)(b)'s vehicle to try to recover the marijuana cigarette. PO Ortiz entered the car, looked in the ashtray and looked around the floor and seats of the vehicle. PO Ortiz was unable to find the marijuana cigarette. PO Ortiz stated that the vehicle did not have a trunk because it was an SUV. PO Ortiz stated that he looked inside the trunk area through the window, but did not recall if he specifically searched the trunk area. PO Ortiz did not recall if he opened the glove compartment. PO Ortiz did not recall any other officers helping him with the search. PO Ortiz also did not recall if there was a second vehicle that was searched. He maintained that he only searched the dark colored SUV.

When asked, PO Ortiz denied that the arrest of § 87(2)(b) was voided. He rather said that the district attorney declined to prosecute the case because marijuana was not recovered. When directly questioned about why he did not charge § 87(2)(b) for smoking marijuana in public in his arrest report, PO Ortiz asserted that it was because the ADA decided not to press charges due to the fact that nothing was recovered.

Det. Bennie Vance

Det. Bennie Vance is a § 87(2)(b)-old black male who is 5'10" tall and weighs 200 pounds, with brown eyes and black hair. Det. Vance was interviewed at the CCRB on February 2, 2008 (encl. 6k-l). On April 16, 2008, Det. Vance worked from 9:27 AM to 6:00 PM. Det. Vance was assigned to court in the morning. Det. Vance did not recall who he was working with. Det. Vance was in plainclothes.

Memo Book

Det. Vance did not have any memo book entries pertaining to the incident (encl. 6i-j).

CCRB Statement

The investigator showed Det. Vance the tactical plan for April 16, 2008, which indicated that Det. Vance was assigned to the chase vehicle as part of the narcotics team. The investigator then showed Det. Vance the movement log for the April 16, 2008 which indicated that Det. Vance, Det. Bombolino, and Det. King signed out at 1400 for a buy and bust operation at an unspecified location. Det. Vance acknowledged that it is possible he was reassigned to the buy and bust operation after he returned from court. Det. Vance stated that he did not, however, have any recollection of the incident.

Det. Frank Altieri

Det. Frank Altieri is a § 87(2)(b)-old white male who is 5'9" tall and weighs 200 pounds, with black hair and brown eyes. Det. Altieri was interviewed at the CCRB on January 16, 2009 (encl. 7c-d). According to the tactical plan for April 16, 2008, Det. Altieri worked from 12:00 PM to 8:00 PM. Det. Altieri was assigned to the prisoner van with PO Nachtrab and was in plainclothes.

Memo Book

Det. Altieri did not have any memo book entries regarding the incident (encl. 7a-b).

CCRB Statement

On April 16, 2008, at approximately 4:30 PM, Det. Altieri received a radio transmission that individuals were stopped at the arrest location and for the prisoner van to come for pickup. Det. Altieri arrived at the location driving westbound on [REDACTED] § 87(2)(b) [REDACTED]. Upon arrival, Det. Altieri saw one tall white male and one short Hispanic male in handcuffs. Det. Altieri did not recall exactly which officers from the field team were at the scene. Det. Altieri did not recall if any other civilians were at the scene of incident. Det. Altieri did not recall seeing any vehicles being searched. Det. Altieri did exit the vehicle upon arriving at the scene. Det. Altieri did not recall if PO Nachtrab exited the vehicle. The defendants were arrested for marijuana, but Det. Altieri did not know who told him this. Det. Altieri did not recall if he saw any of the civilians being frisked or searched. Det. Altieri placed the defendants inside his prisoner van within 5 minutes of arrival.

Det. Joseph King

Det. Joseph King is a § 87(2)(b) -old white male who is 5'10" tall and weighs 220 pounds, with brown hair and hazel eyes. Det. King was interviewed at the CCRB on January 16, 2009 (encl. 7g-h). On April 16, 2008, Det. King worked from 11:22 AM to 8:00 PM. According to his memo book, Det. King was assigned to the prisoner van, a silver minivan, with PO Nactrab and in plainclothes. According to the tactical plan, Det. King was assigned to the chase vehicle.

Memo Book

Det. King's memobook stated the following: "1830:2 male in van" (encl. 7e-f)

CCRB Statement

Det. King did not have any recollection of the incident.

Det. Anthony Bombolino

Det. Anthony Bombolino is a § 87(2)(b) -old white male who is 5'8" tall and weighs 200 pounds, with brown hair and brown eyes. Det. Bombolino interviewed at the CCRB on February 27, 2009 (encl. 7k-l). On April 16, 2008, Det. Bombolino worked from 11:27 AM to 8:00 PM. Det. Bombolino was in plainclothes and assigned to the chase auto, an unmarked silver van, with Det. King and Det. Vance.

Memo Book

Det. Bombolino had no memo book entries about the incident (encl. 7i-j).

CCRB Statement

Det. Bombolino did not have any recollection of the incident.

PO Jason Nachtrab

PO Jason Nachtrab is a § 87(2)(b) -old white male. On April 16, 2008, PO Nachtrab worked from 11:25 AM to 11:00 PM. According to the tactical plan, PO Nachtrab was assigned to the prisoner van with Det. Altieri. It was determined from Det. Altieri's statement that the prisoner van arrived at the scene after both § 87(2)(b) and § 87(2)(b) were already in custody. § 87(2)(g)

Police Department Documents

SPRINT and Communications

A search of MAS records revealed negative results for calls in the vicinity of the time and place of incident (encl. 12m)

Tactical Plan

The Manhattan South Narcotics tactical plan for April 16, 2008 (encl. 8a) indicated that Lt. Lungaro and PO Ortiz were assigned to the lead car. PO Ortiz was the arresting officer. Det. Vance, Det.

King, and Det. Bombolino were assigned to the chase auto. Det. Altieri and PO Nachtrab were assigned to the prisoner van.

Roll Call

According to the Manhattan South Narcotics roll call, 6th Precinct module, for April 16, 2008 (encl. 8b-e), Lt. Lungaro was the module supervisor and worked from 11:25 AM to 11:00 PM. Det. Bombolino worked from 10:25 AM to 8:00 PM. Det. Vance worked from 9:00 AM to 7:00 PM. Det. Altieri worked from 11:25 AM to 11:00 PM. Det. King worked from 11:25 AM to 8:00 PM. PO Nachtrab worked from 11:25 AM to 11:00 PM. PO Ortiz worked from 11:10 AM to 11:30 PM.

Movement Log

The Manhattan South Narcotics movement log for April 16, 2008 (encl. 8f) indicates that at 2:00 PM, Lt. Lungaro and PO Ortiz left for a buy and bust operation in vehicle 4, Det. King, Det. Bombolino and Det. Vance left in vehicle 8, and Det. Altieri and PO Nachtrab left in vehicle 16. Det. King and Det. Bombolino returned at 7:15 PM. Lt. Lungaro and PO Ortiz returned at 10:20 PM. Det. Altieri and PO Nachtrab returned at 10:55 PM.

Command Log

The 10th Precinct command log for April 16, 2008 (encl. 8g), indicates that PO Ortiz logged § 87(2)(b) and § 87(2)(b)'s arrests at 7:20 PM. The log indicates that both § 87(2)(b) and § 87(2)(b) were strip searched and that the strip searches were authorized by Lt. Lungaro.

Prisoner Property Vouchers

Prisoner property voucher § 87(2)(b) for § 87(2)(b) lists a ziplock bag containing marijuana and one ziplock bag containing marijuana and 37 smaller ziplock bags (encl. 8j). Voucher P130340 for § 87(2)(b) lists 105 dollars of USC (encl. 8i). Voucher P130344 for § 87(2)(b) lists 515 dollars of USC (encl. 8m). § 87(2)(b) and § 87(2)(b)'s respective cell phones were also vouchered for safekeeping (encl. k-l).

Prisoner Holding Pen Roster

The 10th Precinct indicated to the CCRB that the prisoner holding pen roster for April 16, 2008 could not be located (encl.).

Stop and Frisk Report

A search of MAS records for UF-250s regarding § 87(2)(b) and a second unidentified female allegedly searched at the scene revealed negative results (encl. 8h).

Disposition of Criminal Cases

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian Criminal Conviction History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civil Notice of Claim

The comptroller's office confirmed that no notice of claim has been filed in regards to the incident (encl. 11g).

Officer CCRB Histories

A search of CTS revealed that PO Frederic Ortiz has no substantiated CCRB allegations on record that have resulted in the imposition of discipline (encl. 2a). Lt. Ernest Lungaro was substantiated for a force allegation in case 9201140, but CCRB records do not note whether Lt. Lungaro received discipline (encl. 2b). Det. Bennie Vance has no substantiated CCRB allegations on record that have resulted in the imposition of discipline (encl. 2c).

Conclusions and Recommendations

Officer Identification

It was determined based on § 87(2)(b)'s arrest report that PO Frederic Ortiz was the arresting officer. The narcotics tactical plan revealed that PO Ortiz worked with Lt. Ernest Lungaro in the lead car, and that the rest of the team consisted of Det. Anthony Bombolino, Det. Joseph King, Det. Bennie Vance, Det. Frank Altieri, and PO Jason Nachtrab. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Undisputed Facts

It is undisputed that § 87(2)(b) arrived at incident location and began speaking to § 87(2)(b). It is undisputed that § 87(2)(b) also spoke to a third individual, "§ 87(2)(b)" at the incident location, before "§ 87(2)(b)" left the scene. It is undisputed that the Manhattan South Narcotics team consisting of PO Ortiz, Lt. Lungaro, Det. Bombolino, Det. King, Det. Vance, Det. Altieri and PO Nachtrab stopped § 87(2)(b) and § 87(2)(b) searched them, and placed them under arrest. It is undisputed that PO Ortiz searched a grey-blue Honda Pilot SUV belonging to § 87(2)(b) and in which § 87(2)(b) had recently been an occupant. It is undisputed that officers recovered ziplock bags of marijuana on § 87(2)(b)'s person. It is undisputed that the officers did not find any contraband on § 87(2)(b)'s person.

Disputed Facts

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Assessment of Evidence

§ 87(2)(g)

§ 87(2)(b) stated that he arrived at the scene of incident in his vehicle after going to a barber shop and met § 87(2)(b) shortly after he exited the car. § 87(2)(b) walked with § 87(2)(b) westbound for half a block, when he encountered "§ 87(2)(b)" and had a brief conversation. PO Ortiz stated that he observed § 87(2)(b) and § 87(2)(b) enter § 87(2)(b)'s vehicle and smoke a marijuana cigarette. PO Ortiz further stated that he walked past the vehicle and smelled marijuana. § 87(2)(b) and § 87(2)(b) then exited the car and were approached by another individual, who engaged in a brief "transaction" with both § 87(2)(b) and § 87(2)(b).

Allegations not pleaded

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation A: PO Frederic Ortiz stopped § 87(2)(b)

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation B: PO Frederic Ortiz stopped § 87(2)(b)

§ 87(2)(g)
[REDACTED]
[REDACTED]

Allegation C: Det. Bennie Vance spoke rudely and obscenely to § 87(2)(b)

§ 87(2)(g)
[REDACTED]
[REDACTED]

Allegation D: Det. Bennie Vance threatened to arrest § 87(2)(b)

§ 87(2)(g)
[REDACTED]
[REDACTED]

Allegation E: Det. Bennie Vance searched § 87(2)(b)

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]

Allegation F: PO Frederic Ortiz searched the vehicle in which § 87(2)(b) **was an occupant.**

According to Kamins, the courts have held that “the police may search a vehicle and any containers found inside when they have probable cause to believe that it contains contraband, a weapon, or evidence of a crime” (encl. 1a). The circumstances that supply probable cause could exist from an arrest or independently of that arrest. Kamins states that in the instance of a vehicle search arising from an arrest, “there must be a *nexus* between the probable cause to search and the crime for which an arrest was made, or, at the least, the *circumstances* that gave the police officer probable cause to conduct the search” (encl. 1c-d). § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation G: Lt. Ernest Lungaro authorized the search of a vehicle belonging to § 87(2)(b)

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: